IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

Crl.MC.No. 2919 of 2007()

CMP.1909/2007 of JUDL. MAGISTRATE OF FIRST CLASS, PEERUMEDU
O.R.NO.1/07 OF FOREST RANGE, AZHUTHA

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PETITIONER: 5TH ACCUSED:

ANEES M.A., S/O. M.N. ALIYAR,
MANAKADU VEEDU, NADACKAL KARA, ERATTUPETTA.

BY ADV. SRI.T.A.UNNIKRISHNAN
SRI.P.P.BIJU

RESPONDENTS: COMPLAINANT & STATE:

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1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

2. THE FOREST RANGE OFFICER,
AZHUTHA RANGE OFFICE, PEERUMEDU.

BY P.P. SRI. M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2919 of 2007

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Dated this the 28th day of September, 2007

O R D E R

The petitioner's application for release of his motor cycle, which is allegedly involved in an offence under the provisions of the Kerala Forest Act, was rejected by the learned Magistrate and the petitioner has come to this Court aggrieved by the said rejection.

2. It is not disputed that the vehicle was not actually used for the transportation of any forest produce. Even the allegation is only that the miscreants used this motor cycle to accompany a vehicle, in which transportation of forest produce was undertaken. It is submitted that the proceedings under Section 61A of the Kerala Forest Act have also been initiated. The learned counsel for the petitioner submits that the vehicle having been produced before the learned Magistrate and the seizure having been reported to the learned Magistrate, the learned Magistrate in the facts and circumstances of this case must certainly be held to have jurisdiction to issue appropriate directions under Section 451 Cr.P.C. The petitioner raises a further contention that there can be valid proceedings at all under S.61A of the Forest Act also.

3. I am prima faciein agreement with the learned counsel. Notwithstanding the opposition of the learned Prosecutor, I am satisfied that appropriate directions can be issued for the release of the vehicle to the petitioner subject to appropriate conditions to be imposed by this Court. Such directions, I am satisfied, are absolutely necessary in the interests of justice and in the peculiar facts and circumstances of this case.

4. This Crl.M.C. is accordingly allowed. The Hero Honda Passion motor cycle bearing Reg. No. KL-5/M-3703 shall be released to the petitioner on the following terms and conditions.

(1) He shall produce all documents before the learned Magistrate to show that he is the owner entitled to possess the vehicle.

(2) He shall execute a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(3) The petitioner shall in such bond specifically undertake not to alienate the vehicle and to keep the same in the same condition in which it is entrusted to him. It shall also be undertaken to produce the vehicle before the learned Magistrate or any other authority as and when directed

by the learned Magistrate. He shall also specifically undertake that the vehicle shall be produced before the Forest Authorities if a final direction under Section 61A of the Act is issued by the Forest authorities.

(R. BASANT)
Judge

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